



NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
CAROLINA POWER & LIGHT COMPANY)
)
NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)
)
Shearon Harris Nuclear Power Plant, Unit 1) License No. NPF-63
) Docket No. 50-400

[NRC-2011-0283]

ORDER APPROVING INDIRECT TRANSFER OF CONTROL OF LICENSE

I.

Carolina Power & Light Company (CP&L, the licensee) and North Carolina Eastern Municipal Power Agency are the owners of Shearon Harris Nuclear Power Plant (Harris), Unit 1. With respect to their ownership, they are coholders of Renewed Facility Operating License No. NPF-63. The Harris facility consists of a single unit Westinghouse three-loop pressurized water reactor located in Wake and Chatham Counties, North Carolina. The facility operating license authorizes CP&L to possess, use, and operate the Harris facility.

II.

By application dated March 30, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11110A031), as supplemented by letter dated September 2, 2011 (ADAMS Accession No. ML11255A129) (collectively hereinafter referred to as the application), the licensee requested, on its own behalf, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the Nuclear Regulatory Commission (NRC, the Commission) consent to the proposed indirect transfer of control of facility operating license to for Harris, Unit 1, to the extent held by CP&L. The proposed indirect transfer of control of the Harris license results from the planned corporate merger between Progress Energy, Inc. (Progress

Energy) and Duke Energy Corporation (Duke Energy). Progress Energy is CP&L's ultimate parent corporation. As part of the transaction, Progress Energy will merge with Diamond Acquisition Corporation, a wholly owned subsidiary of Duke Energy. Progress Energy will be the surviving entity and will become a wholly owned subsidiary of Duke Energy. Progress Energy will become an intermediate parent corporation of CP&L.

The ownership interest in Harris held by CP&L is 83.83 percent and that held by North Carolina Eastern Municipal Power Agency is 16.17 percent. CP&L is the sole operator of Harris. The proposed indirect transfer of control of the Brunswick operating license will not result in any change in the role of the CP&L as the licensed operator and owner of the licensed facilities and will not result in any changes to its financial qualifications, decommissioning funding assurance, or technical qualifications. CP&L will retain the requisite qualifications to own and operate the licensed facility. North Carolina Eastern Municipal Power Agency is not involved in the proposed transaction and will continue to own 16.17 percent of Harris facility.

Approval of the indirect transfer of control of the facility operating license was requested by CP&L. A notice entitled, "Notice of Consideration of Approval of Application for Indirect License Transfers Resulting from the Proposed Merger Between Progress Energy, Inc. and Duke Energy Corporation, and Opportunity for Hearing," was published in the *Federal Register* on August 30, 2011 (76 FR 53967). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80(a), no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying on the representations in the application, the NRC staff has determined that the proposed indirect transfer of control of the Harris license to the extent held by CP&L, to the extent affected by the planned corporate merger between Progress Energy and Duke Energy Corporation, will not affect the qualifications of CP&L as holder of the Harris

license and is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto. The findings set forth above are supported by a safety evaluation dated December 2, 2011.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended (42 USC Sections 2201(b), 2201(i), 2201(o), and 2234 respectively); and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the indirect license transfer related to the proposed merger is approved.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals of the proposed indirect transfer action, CP&L shall inform the Director of the Office of Nuclear Reactor Regulation in writing of the date of the closing of the corporate merger of Progress Energy and Duke Energy. Should the indirect transfer of control of the licenses not be completed by December 2, 2012, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order of the Commission.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated March 30, 2011, as supplemented by letter dated September 2, 2011, and the Safety Evaluation dated December 2, 2011, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS at

<http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this 2nd day of December 2011.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Michele G. Evans, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

[FR Doc. 2011-31635 Filed 12/08/2011 at 8:45 am; Publication Date: 12/09/2011]